

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**CRIMINAL CASE NO.**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

- 1. DILOROM ASIMOVA, and**
- 2. TERRY GARDNER,**

**Defendants.**

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**INDICTMENT**

**Conspiracy**

**(18 U.S.C. § 371)**

**Health Care Fraud**

**(18 U.S.C. § 1347)**

**False Statements Relating to Health Care Matters**

**(18 U.S.C. § 1035)**

**False Statements**

**(18 U.S.C. § 1001)**

**and**

**Aiding and Abetting**

**(18 U.S.C. § 2)**

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**THE GRAND JURY CHARGES:**

**Introduction**

1. The Medicare Health Care Benefit Program. Medicare is a federal insurance program that provides health insurance coverage for people age 65 and older, and for certain disabled people as well. The United States Department of Health and Human Services (HHS) is responsible for the administration of the Medicare program. The Centers for Medicare and Medicaid Services (CMS) is the component agency of HHS that administers and supervises the Medicare program.

Individuals who receive benefits under Medicare are referred to as Medicare “beneficiaries”.

2. Providers of medical services who desire to participate in Medicare are given a provider number, by which their billings are differentiated from other providers such as physicians, hospitals, and other facilities. TERRY GARDNER had a provider number associated with the Medicare program.

3. The Medicaid Health Care Benefit Program. The Medicaid Program is a jointly funded cooperative venture between the Federal and State governments to assist States in the provision of adequate medical care to eligible needy persons. In Colorado, Medicaid is funded with approximately 50% federal monies, and the remaining 50% is paid by the state.

4. Providers apply to participate in the Medicaid program through the Colorado Department of Health Care Policy and Financing (HCPF), through its fiscal agent, Affiliated Computer Services (A.C.S.). Upon acceptance, providers are assigned a unique provider identification number (provider number) by the fiscal agent. Only providers who have been assigned a unique provider number can be reimbursed by the Medicaid program. The procedure code and units of service used by the provider are what determines the reimbursement to the provider, which makes them material elements on the claim form. TERRY GARDNER and TJD had unique provider numbers with the Colorado Medicaid program.

5. If the service provided is a service that must, per state law, be rendered by a licensed or certified individual, then Colorado regulations require that a current valid license or certificate be held by the individual providing the services, if Medicaid is billed for those services.

6. Outpatient services for which Medicare and Medicaid can be billed must be designated with codes described in the manual of Physician’s Current Procedural Terminology

(CPT) published by the American Medical Association. Each of the codes in the CPT manual describes a specific procedure that can be completed by a health care provider. Many procedure codes found within the CPT manual are designated as Evaluation and Management codes (E&M Codes). E&M codes are designated for evaluation and management of a patient and require direct “face-to-face” physician contact with the patient or family.

7. TJD Medical Center and Rehab (TJD) was a business formed by three individuals, including the defendants herein. TJD is a Colorado corporation with two office locations at 4251 Kipling St. Suite 560, Wheat Ridge, CO 80033 and at 2600 S Parker Rd, Building 6-268 Aurora, CO 80014. The company was formed on August 19, 2003 with the registered agent listed as DILOROM ASIMOVA; however, the articles of incorporation were later changed and the registered owner became TERRY GARDNER. TJD was a medical practice which served both Medicare and Medicaid beneficiaries, as well as other private and government sponsored health insurance programs. TJD Medical Center has an arrangement with Trailblazers and formerly with Noridian, whereby they are allowed to submit Medicare claims for reimbursement electronically rather than by mail.

8. TERRY GARDNER is a licensed commercial airline pilot. He has also been a licensed physician in the state of Colorado since May 25, 2001. TERRY GARDNER could not dedicate his full time employment to TJD Medical Center and Rehab because he was also working as a full time Commercial Airline Captain for Trans States Airlines based out of St. Louis, Missouri.

9. At no time has DILOROM ASIMOVA been a licensed doctor in Colorado or any other state in the United States.

**COUNT ONE**  
**Conspiracy**  
**(18 U.S.C. § 371)**

10. From on or about October 2003 and continuing until in or about February 2009 in the District of Colorado and elsewhere,

**1. DILOROM ASIMOVA, and**  
**2. TERRY GARDNER,**

did knowingly and willfully combine, conspire, confederate and agree with each other and others known and unknown, to knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit programs; namely, the Colorado Medicaid program and the Medicare program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program; namely, the Colorado Medicaid program and the Medicare program in connection with the delivery of or payment for health care benefits, items and services, in violation of Title 18, United States Code Section 1347; and to knowingly and willfully falsify, conceal and cover up by trick, scheme or device material facts related to submission of claims to the Colorado Medicaid program and the Medicare program and make materially false, fictitious and fraudulent statements and representations, make and use materially false writings and documents knowing same to contain materially false, fictitious and fraudulent statements and entries to the Colorado Medicaid Program and Medicare program in connection with the delivery of or payment for health care benefits, items and services, in violation of Title 18, United States Code Section 1035.

**The Scheme to Defraud Health Care Benefit Programs**

11. The defendants, aiding and abetting each other, submitted false and fraudulent claims

for health care services to health care benefit programs, Medicare and the Colorado Medicaid program, that required the presence of a doctor, direct face-to-face contact between the patient and doctor, or direct supervision of a doctor, and for services that were not rendered, not performed as billed, or not otherwise in compliance with applicable Medicare and Medicaid regulations.

**Manner and Means**

12. As part of the conspiracy and scheme, the defendants, aiding and abetting each other, represented and held out to patients that DILOROM ASIMOVA was a doctor authorized to practice medicine in Colorado.

13. As part of the conspiracy and scheme, the defendant, DILOROM ASIMOVA diagnosed and treated patients at TJD.

14. As part of the conspiracy and scheme, the defendants, aiding and abetting each other, billed Medicare and the Colorado Medicaid program for services that were performed by DILOROM ASIMOVA and other unlicensed individuals without the direct supervision of a licensed doctor.

15. As part of the conspiracy and scheme, the defendants, aiding and abetting each other and others, billed Medicare and the Colorado Medicaid program for translation services that were performed by DILOROM ASIMOVA and others.

16. As part of the conspiracy and scheme, the defendants, aiding and abetting each other, billed Medicare and the Colorado Medicaid program for services that were never provided.

17. As part of the conspiracy and scheme, the defendants, aiding and abetting each other, falsely and fraudulently billed Medicare and the Colorado Medicaid program for services supposedly provided directly by TERRY GARDNER or in his immediate presence when in truth TERRY GARDNER was acting as a commercial airline pilot during the times relevant to those services being

provided.

18. As part of the conspiracy and scheme, the defendants, aiding and abetting each other and others, in order to conceal their conduct, misrepresented that medical services provided were “face-to-face” as required, and that DILOROM ASIMOVA did not see patients as a doctor.

**Overt Acts**

19. In order to effect the purpose and objects of the conspiracy, the Defendants did perform certain acts, as follows:

20. On or about August 19, 2003, TERRY GARDNER and DILOROM ASIMOVA created TJD Medical Center and Rehabilitation by filing documents with the Colorado Secretary of State.

21. On or about October 29, 2003, TERRY GARDNER and DILOROM ASIMOVA aka “Doctor Dilla”, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99205 for Medicaid beneficiary IK.

22. On or about October 29, 2003, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99294 for Medicaid beneficiary TK.

23. On or about October 29, 2003, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99205 for Medicaid beneficiary LR.

24. On or about October 29, 2003, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99205 for Medicaid beneficiary KT.

25. On or about February 16, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99212 for Medicaid beneficiary AK.

26. On or about February 25, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99211 for Medicaid beneficiary NP.

27. On or about May 3, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99212 and 99354 for Medicaid beneficiary SB.

28. On or about August 9, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary KR.

29. On or about September 13, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary AK.

30. On or about September 15, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary AZ.

31. On or about November 23, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary AN.

32. On or about June 13, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary VR.

33. On or about September 30, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary LK.

34. On or about September 30, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary YP.

35. On or about November 14, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99212 and 99354 for Medicaid beneficiary VH.

36. On or about November 16, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary AP.

37. On or about March 31, 2006, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary YA.

38. On or about April 17, 2006, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Codes 99214 and 99354 for Medicaid beneficiary AS.



39. On or about May 5, 2006, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT Code 99211 for Medicaid beneficiary VK.

40. On or about December 8, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicare for CPT Codes 99214 and 99354 for Medicaid beneficiary VP.

41. On or about October 22, 2003, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT code 99354 for Medicaid beneficiary AS.

42. On or about June 2, 2004, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT code 99354 for Medicaid beneficiary YS.

43. On or about March 31, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT code 99354 for Medicaid beneficiary EK.

44. On or about December 9, 2008, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicaid for CPT code 99354 for Medicaid beneficiary FK.

45. On or about June 23, 2005, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicare for CPT code 99354 for Medicare beneficiary ES.

46. In or about January 2006, TERRY GARDNER wrote and sent a letter to the Western Integrity Center (WIC), a Medicare contractor, indicating all medical services provided were “face to face”.

47. On or about May 8, 2008, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicare for CPT codes 99204 and 99354 for Medicare beneficiary IZ.

48. On or about June 24, 2008, TERRY GARDNER and DILOROM ASIMOVA, aiding and abetting each other and others, submitted a bill to Medicare for CPT codes 99214 and 99354 for Medicare beneficiary IZ.

49. On or about February 12, 2009, DILOROM ASIMOVA aka “Doctor Dilla” told Special Agents of the F.B.I. that she did not see patients as a doctor.

All in violation of Title 18, United States Code, Section 371.

**COUNTS TWO THROUGH TEN**  
**Health Care Fraud-Colorado Medicaid Program**  
**(18 U.S.C. §§ 1347 and 2)**

50. The Grand Jury realleges and incorporates the paragraphs 1-9 and 11-49 of this Indictment as if fully set forth herein.

51. On or about the dates stated below, in the District of Colorado and elsewhere,

**1. DILOROM ASIMOVA, and**  
**2. TERRY GARDNER,**

aiding and abetting each other did knowingly and willfully execute and attempt to execute, a scheme:

(a) to defraud a health care benefit program; namely, the Colorado Medicaid program

and

- (b) to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program; namely, the Colorado Medicaid program;

in connection with the delivery of or payment for health care benefits, items and services while doing business as TJD.

| <b>Counts</b> | <b>“On or About” Date</b> | <b>Alleged Beneficiary (Initials)</b> | <b>CPT Code</b> | <b>Claim Number</b> |
|---------------|---------------------------|---------------------------------------|-----------------|---------------------|
| 2             | 06/13/05                  | VR                                    | 99214<br>99354  | 30516650000000031   |
| 3             | 09/30/05                  | LK                                    | 99214<br>99354  | 30527650000004727   |
| 4             | 09/30/05                  | YP                                    | 99214<br>99354  | 30527750000000000   |
| 5             | 11/14/05                  | VH                                    | 99212<br>99354  | 30532100000001485   |
| 6             | 11/16/05                  | AP                                    | 99214<br>99354  | 30532100000002201   |
| 7             | 03/31/06                  | YA                                    | 99214<br>99354  | 30609800000000258   |
| 8             | 04/17/06                  | AS                                    | 99214<br>99354  | 30611000000009619   |
| 9             | 05/05/06                  | VK                                    | 99211           | 30613100000006946   |
| 10            | 12/09/08                  | FK                                    | 99354           | 30834700000007334   |

All in violation of Title 18, United States Code, Sections 1347 and 2.

**COUNTS ELEVEN THROUGH THIRTEEN**  
**Health Care Fraud-Medicare**  
**(18 U.S.C. §§ 1347 and 2)**

52. The Grand Jury realleges and incorporates the paragraphs 1-9 and 11-49 of this Indictment as if fully set forth herein.

53. On or about the dates stated below, in the District of Colorado and elsewhere,

**1. DILOROM ASIMOVA, and**  
**2. TERRY GARDNER,**

aiding and abetting each other did knowingly and willfully execute and attempt to execute, a scheme and artifice:

- (a) to defraud a health care benefit program; namely, the Medicare program and
- (b) to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program; namely, the Medicare program;

in connection with the delivery of or payment for health care benefits, items and services while doing business as TJD.

| <b>Counts</b> | <b>“On or About” Date</b> | <b>Alleged Beneficiary (Initials)</b> | <b>CPT Code</b> | <b>Claim Number</b> |
|---------------|---------------------------|---------------------------------------|-----------------|---------------------|
| 11            | 06/23/05                  | ES                                    | 99354           | 0205180276660       |
| 12            | 05/08/08                  | IZ                                    | 99354<br>99204  | 0208141151610       |
| 13            | 06/24/08                  | IZ                                    | 99354<br>99214  | 0208182289120       |

All in violation of Title 18, United States Code, Sections 1347 and 2.

**COUNT FOURTEEN**  
**False Statements relating to Health Care Matters**  
**(18 U.S.C. § 1035 and 2)**

54. The Grand Jury realleges and incorporates the paragraphs 1-9 and 11-49 of this Indictment as if fully set forth herein.

55. In or about January 2006, in the District of Colorado and elsewhere,

**2. TERRY GARDNER,**

did knowingly and willfully:

(a) make materially false, fictitious and fraudulent statements and representations, and

(b) make and use a materially false writing and document knowing same to contain materially false, fictitious and fraudulent statements and entries, in connection with the delivery of health care benefits, items and services at TJD or the payment of health care benefits, items and services by the Medicare program, involving Medicare recipients, by misrepresenting to Medicare that TJD bills relating to CPT code 99354 were submitted pursuant to a face-to-face, direct patient-physician contact, knowing that TJD often billed under that code for services not provided, for services not provided by a physician, and for services provided while the defendant was acting as a pilot.

All in violation of Title 18, United States Code, Sections 1035 and 2.

**COUNTS FIFTEEN**  
**Title 18, United States Code, Section 1001**  
**(False Statements)**

56. On or about February 12, 2009 in the District of Colorado, in a matter within the jurisdiction of the executive branch of the government of the United States,

**DILOROM ASIMOVA,**

knowingly and willfully did make the below materially false statements to FBI Special Agent Olga Kendle, when in truth, she knew the below described facts:

| COUNTS | FALSE STATEMENTS  | THE TRUTH IN FACT  |
|--------|---|--|
| 15     | <i>She stated that she is an Office Manager, Practice Administrator. She is not seeing patients as a doctor, the only time she's in the exam room is when the doctor needs help with translation when communicating with a patient.</i> | The defendant was acting as a doctor at TJD by seeing and treating patients. |

In violation of Title 18, United States Code, Section 1001.

A TRUE BILL:

Ink signature on file in the Clerk's Office  
FOREMAN

DAVID M. GAOUETTE  
United States Attorney

By: s/ Jaime a. Pena  
JAIME A. PENA  
Assistant United States Attorney  
U.S. Attorney's Office  
1225 17<sup>th</sup> St. Suite 700  
Denver, CO 80202  
(303) 454-0198  
\_\_\_\_\_E-mail: [jaime.pena2@usdij.gov](mailto:jaime.pena2@usdij.gov)

INFORMATION SHEET

DEFENDANT : DILOROM ASIMOVA

YEAR OF BIRTH: 1959

ADDRESS: Aurora, Colorado

COMPLAINT FILED? ☐ YES ☒ NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: \_\_\_\_\_

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ☐ YES ☒ NO

OFFENSE: Count 1: Title 18, United States Code, Sections 371 and 1347 - Conspiracy to Commit Health Care Fraud.

\_\_\_\_\_Counts 2-13: Title 18, United States Code, Sections 1347 and 2- Health Care Fraud and Aiding and Abetting same.

\_\_\_\_\_Count 15: Title 18, United States Code, Section 1001 - Making False Statements.

LOCATION OF OFFENSE: Denver County, Colorado

PENALTY: Count 1: NMT 5 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

Counts 2-13: NMT 10 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

\_\_\_\_\_Count 15: NMT 5 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

AGENT: Charles Klein, Special Agent  
Health and Human Services-Office of Inspector General

AUTHORIZED BY: Jaime A. Pena  
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

☐ five days or less ☒ over five days ☐ other

THE GOVERNMENT will ( X ) will not ( ) seek detention in this case.

INFORMATION SHEET

DEFENDANT : TERRY GARDNER

YEAR OF BIRTH: 1948

ADDRESS: Chesterfield, MO

COMPLAINT FILED? ☐ YES ☒ NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: \_\_\_\_\_

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ☐ YES ☒ NO

OFFENSE: Count 1: Title 18, United States Code, Sections 371 and 1347 - Conspiracy to Commit Health Care Fraud.

\_\_\_\_\_Counts 2-13: Title 18, United States Code, Sections 1347 and 2- Health Care Fraud and Aiding and Abetting same.

\_\_\_\_\_Count 14: Title 18, United States Code, Section 1035 - Making False Statements In Relation to a Health Care Matter.

LOCATION OF OFFENSE: Denver County, Colorado

PENALTY: Count 1: NMT 5 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

Counts 2-13: NMT 10 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

\_\_\_\_\_Count 14: NMT 5 years, \$250.000.00 fine, or both; \$100 Special Assessment Fee.

AGENT: Charles Klein, Special Agent  
Health and Human Services-Office of Inspector General

AUTHORIZED BY: Jaime A. Pena  
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

☐ five days or less ☒ over five days ☐ other

THE GOVERNMENT will ( X ) will not ( ) seek detention in this case.